CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Guadalupe Mines Landfill Creek Bank Stabilization.

PROJECT FILE NUMBER: PDA93-018-02

PROJECT DESCRIPTION: The Guadalupe Rubbish Disposal Company, Inc. (GRDC) proposes to stabilize creek bank slopes in five areas along an approximately half mile stretch of Guadalupe Creek and to repair an embankment and drainage ditch that discharges into an existing storm water retention pond located at the eastern project boundary. The proposed area of ground disturbance in these five areas, as well as construction staging areas and access routes, constitute the project site. In general, the proposed project would include grading of over-steepened slopes to reduce erosion potential, improve bank stability, and accommodate revegetation. Work would be confined to the creek banks and adjacent upland areas, and no work would occur in the creekbed or below the ordinary high water mark.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The Guadalupe Landfill property is located on a 331.15 gross acre site in southwestern San José (15999 Guadalupe Mines Road). APN 575-04-006

COUNCIL DISTRICT: 10

APPLICANT CONTACT INFORMATION: Guadalupe Rubbish Disposal Company, Inc., 15999 Guadalupe Mines Road, San Jose, CA 95120 (Contact: Bill Spence, (408) 268-1670 ext. 6311, wspence@wm.com).

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

I. AESTHETICS. The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.

II. AGRICULTURE AND FOREST RESOURCES. The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

III. AIR QUALITY. The project will incorporate standard Best Management Practice measures during construction and will not have a significant air quality impact, therefore no mitigation is required.

IV. BIOLOGICAL RESOURCES. The project could have potentially significant impacts on biological resources and sensitive habitats. Mitigation measures are identified below that will reduce these potential impacts to a less-than-significant level.

1. Measure BIO-1: An employee education program shall be conducted prior to the initiation of project activities. The program will consist of a brief presentation by persons knowledgeable in federally-listed and state special status species biology and legislative protection to explain concerns to contractors and their employees. The program shall include: a) a description of the special-status species occurring or potentially occurring on the site; b) information on status of protected species and protection under state and federal laws; and c) a list of measures required during the project to reduce impacts to natural communities and special-status species. Crews shall be instructed what to do if an animal is found, including notifying the project foreman and the City of San Jose immediately. City of San Jose staff shall notify the appropriate wildlife agency. Educational materials will also provide information on protecting the creeks and wetlands from construction damage.
2. Measure BIO-2: The biological monitor shall coordinate with the contractor to conduct pre-construction surveys for California Red-legged Frog (CRF), Foothill Yellow-legged Frog (FYF) and Western Pond Turtle (WPT) immediately before initiation of any ground disturbing activities in each area. These surveys will comprise walking transects while conducting visual encounter surveys within areas that will be subject to vegetation clearing, grubbing, grading, cut and fill, or other ground disturbing activities.
3. Measure BIO-3: A qualified biologist shall be present during all grubbing and vegetation clearing activities that may affect CRF, FYF or San Francisco Dusky-footed Woodrat (SFDW). If at any point CRF, FYF, SFDW or any other listed species is discovered during these activities, all work will cease and the appropriate wildlife agency shall be contacted to determine how to proceed.
4. Measure BIO-4: To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than 2 feet deep shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled they must be thoroughly inspected for trapped animals. Any pipes or similar structures stored in the project site overnight shall be inspected before they are

subsequently moved, capped and/or buried. If at any time a listed species is discovered, the on-site biological monitor shall be immediately informed. The on-site biological monitor shall determine if relocating the species is necessary and shall work with the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) prior to handling or relocating unless otherwise authorized.

5. Measure BIO-5: To prevent animals from becoming entangled, trapped or injured, erosion control materials that contain synthetic mono-filament netting shall not be used within the project area. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut (coir), twine or other similar fibers.

6. Measure BIO-6: Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or Oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Adjacent oaks and oak woodland areas should be preserved to the maximum extent feasible as potential bat roosting habitat. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG.

7. Measure BIO-7: Not more than thirty (30) days before initial ground disturbance on the project site, a qualified biologist shall conduct a survey of the project site for any existing woodrat houses. If any woodrat houses are found within the project site, they shall be removed according to the following procedures. Prior to any disturbance of the woodrat house, logs and branches should be placed under the canopies of trees near, but outside of, the project site. Next, all understory vegetation shall be cleared within the project site or in the area immediately surrounding the houses (but the house itself should not be removed at this stage). After all cover (except the houses themselves) has been removed, each active house shall be disturbed (by a qualified wildlife biologist) to the degree that woodrats leave the nest and seek refuge elsewhere. The house sticks shall be removed from the project site and piled at the base of newly placed logs and branches outside the project site. Potential health hazards to persons moving nests should be addressed to minimize risk of contracting diseases associated with woodrats and woodrat houses. This mitigation measure shall be performed under the direct supervision of a biologist approved for this project by the CDFG.

8. Measure BIO-8: If feasible, vegetation removal shall be scheduled outside of the nesting season for raptors and other birds protected by the Migratory Bird Treaty Act (MBTA), such that vegetation removal occurs only from October 1 through December 31. If this is not possible, pre-construction surveys for nesting raptors and other birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests. If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with CDFG, designate a construction-free buffer zone (typically 250 feet for raptors and 50 feet for other birds) around the nest.

9. Measure BIO-9: Consistent with routine agency guidelines, the western black willow and the coast live oak to be removed by the project shall be replaced in kind at a 3:1 ratio in the project vicinity. The minimum size of each replacement tree will be a 24-inch box. Replacement trees shall be in good health and should be from local stock if feasible. All replacement trees shall be watered for at least one year after planting at least twice monthly during the dry season, after the soil is dry to the touch 3 inches below grade. Replacement trees shall be monitored and shall be replanted if they die. Tree replacement shall comply with City of San Jose regulations and with permit requirements from the California Department of Fish and Game and the Regional Water Quality Control Board. If the trees that have to be trimmed die, or grading occurs within the drip line and the tree dies, the tree shall be replaced in kind at a 3:1 ratio in the project area with a minimum 24-inch box size. To provide plant diversity and include existing species in and adjacent to the riparian zone, the proposed hydroseed mix shall also include mugwort (Artemisia douglasiana), California figwort (Scrophularia californica; also known as California bee plant), coyote brush (Baccharis pilularis), California sage (Artemisia californica), and buckwheat (Eriogonum fasciculatum) (2 lbs/ac).

   Willow poles shall be installed on the top of bank in each graded area, so that at least three willow poles are planted in each area. Willow poles are woody plant cuttings, capable of rooting, that are taken from trees and shrubs. All plant materials must be top quality stock, and it is desirable that the poles be taken from willows in the vicinity, including the willow that would be removed as part of this project if it is healthy and has sufficient pole material. This will ensure that the plant materials are true to species. The trees from which these three poles will be cut shall be sound, healthy specimens. Plant materials that have serious injuries, insect pests, diseases or are shriveled, will be rejected. Willow poles shall be cut using a sharp tool. Live willow poles shall be from 5 to 8 ft in length with a basal end of 0.5 to 1.5 in. in diameter. The top ends shall be blunt; butt ends shall be angled at 45 degrees. The poles shall be stripped of all stems and leaves, taking care to minimize scarring or bruising. Immediately upon cutting, willow poles will be placed in water in a shaded area and shall be installed as soon as possible. If the installation is to be longer than 2 weeks, the poles can be planted in 15-gallon containers with at least 12 inches of soil cover.

The revegetation efforts shall be monitored for five years, and the monitoring shall be documented in an annual report. The performance standard is to achieve a minimum of 1:1 replacement of trees removed by the project by year 5, and a minimum 80 percent cover in the hydroseeded areas by year 2. Replanting shall occur as required to meet the performance standard. The planted areas shall be weeded of noxious invasive plant species, including primarily nonnative thistles, broom species, and eucalyptus until vegetation is well established in the planted areas. Monitoring tasks and schedule are summarized in the following table:

Monitoring Tasks, Schedule and Performance Standards			
Element	**Monitoring or Maintenance Task**	**Task Schedule for Five Year Monitoring**	**Performance Standard**
Tree mortality	Visually observe each tree or pole that is planted to ensure it is still alive; weed areas around tree to promote survival.	Observe and weed monthly for the first three months after planting, then observe twice per year	Minimum 1:1 replacement of trees removed by the project by year 5
Plant cover	Visually observe hydroseeded areas to ensure a diversity of species are established, and invasive thistles, broom and eucalyptus are not present.	Monthly for the first three months after planting, then twice per year	Minimum 80% cover after 2 years
Invasive weed control	Remove non-native thistle, broom species and eucalyptus from planted areas.	Monthly for the first three months after planting, then twice per year	Less than 1% cover of invasive thistle, broom or eucalyptus in hydroseeded areas
Remediation	Replace dead and/or dying vegetation if survivorship of original plantings falls below 80%.	Fall	See above

10. Measure BIO-10: The following tree protection measures shall be included in the project in order to protect trees to be retained during construction and comply with City of San Jose guidelines:

- Damage to any tree during construction shall be reported to the City's Environmental Principal Planner, and GRDC contractors shall treat the tree for damage in the manner specified by the Environmental Principal Planner.
- No construction equipment, vehicles or materials shall be stored, parked or standing within the tree dripline; and
- Cutting and filling around the base of trees shall be done only after consultation with the city arborist and then only to the extent authorized by the city arborist; and

- No waste construction materials or wastewater shall be dumped on the ground between the dripline and the base of the tree or uphill from any tree where certain substances might reach the roots through a leaching process; and
- Barricades shall be constructed around the trunks of trees as specified by a qualified arborist so as to prevent injury to trees making them susceptible to disease causing organisms; and
- Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.

V. **CULTURAL RESOURCES.** The proposed project could adversely impact historical loci and features identified in the archaeological survey conducted for the project area. This impact will be reduced to a less-than-significant level with the mitigation measures listed below.

1. Measure CULT-1: GRDC shall retain a qualified historical archaeologist to depict cultural features and loci identified in the archaeological survey (Holman & Associates, 2011) on the project plans. The historical archaeologist shall also flag a ten foot buffer around all cultural features and loci that could be potentially impacted by the project. Project construction shall avoid the flagged cultural resources to the extent feasible. If construction work would occur within ten feet of any recorded features or loci, a historical archaeologist shall conduct a more detailed recording and historical research to evaluate the affected features or loci eligibility for listing on either California Register of Historical Resources or the National Register of Historic Places. If features or loci are not eligible, avoidance is not necessary. If features or loci are eligible, they shall be avoided or adverse affects shall be mitigated. New Almaden County Park expressed an interest in accepting buildings, structures, or objects that might need to be removed.

VI. **GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. **GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. **HAZARDS AND HAZARDOUS MATERIALS.** The project may result in significant impacts associated with the presence and release of hazardous materials on the project site during construction. Mitigation measures identified below will reduce these impacts to a less-than-significant level.

1. Measure HAZ-1.1: Excavation and grading shall avoid serpentine when feasible. If serpentine must be graded, the top 2 feet of soil shall be replaced with clean soil, so as to avoid impacts from naturally occurring asbestos (NOA). Soils potentially contaminated with mercury or containing NOA shall be removed and disposed of at an appropriate facility, to the satisfaction of the Director of Public Works. Dust shall be suppressed during grading, and a dust control plan to minimize exposure to mercury and

NOA (per the Bay Area Air Quality Management District regulations) shall be submitted to the Environmental Services Department.

2. Measure HAZ-1.2: A worker safety and health program, as required by Cal OSHA will be implemented during soil removal, transport, and consolidation. The worker safety and health program will:

   - Minimize human contact with contaminated soils, inhalation of dust, and contact with ground or surface water.
   - Inform Guadalupe Landfill employees and visitors of the relevant aspects of the safety and health program.
   - Require the responsible contractor to monitor and enforce compliance.
   - Require visitors and other non-essential personnel to stay a distance adequate to ensure their safety. The site will be open only to workers and individuals required to undertake or inspect work.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. LAND USE AND PLANNING. The project will not have a significant land use impact, therefore no mitigation is required.

XI. MINERAL RESOURCES. The project will not have a significant impact on mineral resources, therefore no mitigation is required.

XII. NOISE. The project will not have a significant noise impact, therefore no mitigation is required.

XIII. POPULATION AND HOUSING. The project will not have a significant population and housing impact, therefore no mitigation is required.

XIV. PUBLIC SERVICES. The project will not have a significant impact on public services, therefore no mitigation is required.

XV. RECREATION. The project will not have a significant impact on recreation, therefore no mitigation is required.

XVI. TRANSPORTATION / TRAFFIC. The project will not have a significant traffic impact, therefore no mitigation is required.

XVII. UTILITIES AND SERVICE SYSTEMS. The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 17, 2012,** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;

   or

2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulation period, from November 16, 2012 to December 17, 2012

Deputy

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